

# Exhibit 1

ORIGINAL

MAR 6 2002  
 at 3 o'clock and 40 min  
 WALTER A. Y. H. CHINN/CLERK

## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

Plaintiff,

vs.

FLEMING COMPANIES, INC., aka

FLEMING FOODS, INC., aka

FLEMING,

DOE INDIVIDUALS 1-50 AND

DOE PARTNERSHIPS,

CORPORATIONS AND OTHER

ENTITIES 1-20,

Defendants.

) CIVIL NO. 01 00446 SPK LEK

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) SPECIAL VERDICT FORM

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## SPECIAL VERDICT FORM

## A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes ☒No ☐

If "YES" go to next question.

If "NO", skip to section B.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes X

No \_\_\_\_\_

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes X

No \_\_\_\_\_

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes X

No \_\_\_\_\_

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$99,250.00

B. CRYSTAL REPORTS SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes ☒ No ☐

If "NO", skip to section C.

If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes ☒ No ☐

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes ☐ No ☒

If "NO" skip to section C.

If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes ☐ No ☐

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?
- \_\_\_\_\_

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes X No \_\_\_\_\_

If "YES" go to next question.

If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes X No \_\_\_\_\_

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes \_\_\_\_\_ No X

If "NO" skip to the end.

If "YES" go to next question.

4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes \_\_\_\_\_


No \_\_\_\_\_

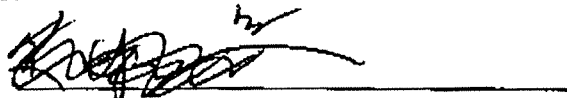
Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?

\_\_\_\_\_

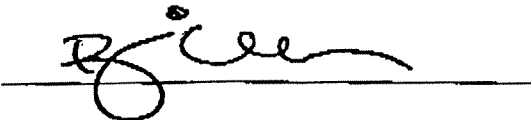
Please sign and date this Special Verdict Form.

  
Jury Foreperson

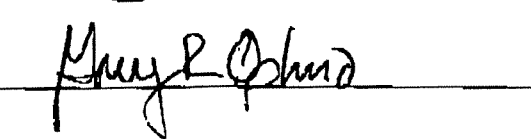


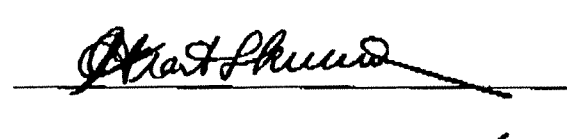



Carol Ho Akimoto



A K A





  
Date  
3/6/03